

P. H.

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF UTAH, IN AND FOR UTAH COUNTY.

CAUSE #2888

Provo Reservoir Company,
a corporation

Plaintiff

vs

Provo City,
a municipal corporation et al.

Defendants

ANSWER

Counterclaim and Cross Complaint
of

First Ward Pasture Company,
a corporation

Now comes the defendant First Ward Pasture Company,
a corporation, and by stipulation of counsel and by leave of
court, first had and obtained, answers the complaint of the
plaintiff herein, and admits, denies and alleges as follows:

1. This defendant admits the allegations in the complaint
of plaintiff contained in paragraphs numbered 1 to 27 both in-
clusive and

Further answering the complaint of the plaintiff, this def-
endant generally each and every allegation thereof, not herein specifically
denied.

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by way of counterclaim against the plaintiff and as a cross com-
plaint against each and all of the defendants, this defendant
alleges and shows to the court.

1. This defendant adopts and alleges as a part of its
counterclaim against the plaintiff and as a cross complaint as
to each and all of the other defendants herein, each and every
allegation contained within paragraphs numbered 1 to 26 both in-
clusive of plaintiff's complaint herein, the same as if here set
forth in full

P-4

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STATE OF UTAH, IN AND FOR UTAH COUNTY.

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ANSWER

Counterclaim and Cross Complaint
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First Ward Pasture Company,
a corporation

Now comes the defendant First Ward Pasture Company,
a corporation, and by stipulation of counsel and by leave of
court, first had and obtained, answers the complaint of the
plaintiff herein, and admits, denies and alleges as follows:

1. This defendant admits the allegations in the complaint
of plaintiff contained in paragraphs numbered 1 to 27 both in-
clusive and paragraph numbered 37.

2. That this defendant has no knowledge, information
or belief sufficient to answer any or either of the allegations
in paragraphs numbered 28, 29, 29 A, 29 B, 29 C, 29 D, 29 E, 30,
31, 32, 33, 38 and 39 of plaintiff's complaint and, therefore,
denies each and every allegation of the said paragraphs.

Further answering the complaint of the plaintiff and
by way of counterclaim against the plaintiff and as a cross com-
plaint against each and all of the defendants, this defendant
alleges and shows to the court.

1. This defendant adopts and alleges as a part of its
counterclaim against the plaintiff and as a cross complaint as
to each and all of the other defendants herein, each and every
allegation contained within paragraphs numbered 1 to 26 both in-
clusive of plaintiff's complaint herein, the same as if here set
forth in full

2. This defendant is a corporation duly organized, created and existing under the laws of the State of Utah, and by its charter and by full compliance with the laws of the State of Utah, is authorized and empowered, among other things, to own, acquire, control, use and distribute water for irrigation, domestic and other beneficial uses to consumers thereof, and particularly to and for its members and stockholders; to own, operate, acquire and use ^{lands} for agricultural and other useful purposes.

3. That in pursuance of its said powers and authority, it is the owner in fee of the following described real property, situate, lying and being in Utah County, State of Utah, to-wit:

Commencing 12.00 chains West of the northeast corner Section 13, township 7 South, Range 2 East S.L.M; thence S. 1° 00' W. 20.72 chains; thence west 6.00 chains; thence S. 1° 00' W to the shore of Utah Lake; thence easterly along the shore of Utah Lake to the east boundary line of the southwest quarter section 18, Township 7 South, Range 3 East S.L.M, thence north along the quarter section line to the center of Section 18 aforesaid; thence east 6.10 chains; thence north 4.80 chains; thence east 5.90 chains; thence north 8.00 chains; thence N. 19° 00' W. 3.36 chains; thence N. 27° 00' W. 4.89 chains; thence N. 32° 00' W 6.20 chains; thence West 5.05 chains; thence N. 89° 00' W. 1.70 chains; thence north 14.30 chains; thence east 1.70 chains; to the northeast corner of the northwest quarter section 18 aforesaid; thence north 0.50 chains; thence west 1.40 chains; thence north 1.00 chains; thence N. 26° 00' W. 21.15 chains; thence N. 28° 15' W. 2.00 chains; thence north 32° 15' W. 4.16 chains; thence N. 89° 00' W. 26.00 chains; thence north 0.25 chains; thence N. 89° 30' W. 11.55 chains; thence S. 1° 00' W. 26.10 chains to the place of beginning.

Together with all water and water rights used upon or appurtenant to said lands for the irrigation of the same and for domestic use and the watering of live stock.

4. That in or about the year 1850 the predecessors in interest of this defendant at great expense, constructed a canal from Provo River near the mouth of Provo Canyon to its saidland, and then appropriated of the unappropriated water of Provo River seventy second feet of said water by diverting the same into said canal, and ever since its predecessors in interest and this defendant have used said water on the said lands for the irrigation thereof and for domestic and other beneficial uses, and that the

use of said water had by this defendant was and is a necessary and beneficial use.

5. That in making said appropriation of the water of said river as aforesaid, this defendant and its predecessors in interest fully complied with all the requirements of the laws of the State of Utah relative to the appropriation of water, and ever since said appropriation have continuously used the same for the beneficial purposes aforesaid economically and without waste.

6. That said lands of this defendant without irrigation are barren, unproductive and without value, but with artificial irrigation they are productive, profitable and of great value.

7. That the plaintiff and each of the other defendants as this defendant is informed and believes, and therefore alleges the fact to be assert and set up some claim or interest adverse to the ownership, right, title and interest of this defendant to the use of the said water of said river as aforesaid and as claimed by this defendant herein, but this defendant has not sufficient knowledge or information to enable it to set forth herein the character or nature of said claims or interest so asserted and set up or any of them.

8. This defendant further alleges that the several claims or interests asserted and set up by the plaintiff and each of the other defendants, are wrongful, without right and unfounded in fact or law and are a cloud upon this defendant's title and right to the use, possession, ownership and enjoyment of the said water of Provo River as herein set forth.

Wherefore this defendant prays judgment that the plaintiff and each of the other defendants herein may be required to set forth any and every adverse claim, interest or demand by them and each of them in and to the water of said Provo River, and the right to the use thereof so claimed by this defendant to the fact that their several adverse claims, pretensions and demands may be

adjudicated, and declared null and void as against this defendant, and that the title, ownership and interest thereto of this defendant in and to the water of said Provo River so claimed by it as herein set forth, may be quieted and confirmed as against the plaintiff and each and all of the other defendants herein, and that the interest, title and ownership of this defendant thereto as herein set forth may be adjudicated and decreed to be good and valid.

This defendant prays for such other and further relief in the premises as to the court may seem just and equitable and for its costs in this behalf expended.

J. E. Evans
Attorney for defendant
First Ward Pasture Company,
a corporation

County of Utah :
 : SS.
State of Utah :

John W. Farner being first duly sworn on oath deposes and says, I am an officer of First Ward Pasture Company a corporation, to-wit, the President thereof, that I have read the above and foregoing answer, counterclaim and cross complaint and know the contents thereof, that the same is true of my own knowledge, except as to the matters therein stated on information and belief, and as to those matters, I believe them to

true.

Subscribed and sworn to before me the 20 day of September,

A. D. 1915.

Jacob Coleman
Notary Public.

My commission expires _____.

I hereby acknowledge due and legal service of the above and foregoing answer, counterclaim and cross complaint, and consent to the filing thereof this 11 day of September, A.D. 1915.

A. J. Evans
Attorney for Plaintiff

No 2888

In the Fourth Judicial
District Court of the
State of Utah, Utah County.

Porro Reservoir Company,
a corporation.
vs Plaintiff

Porro City, a Municipal Corporation
et al.

vs
Guaranty First Hand Pasture
Company

W. C. [unclear]
[unclear]
[unclear] all [unclear]
for [unclear]